FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE.
CRIMINAL APPLICATION NO. 137 OF 2005.
IN
CRIMINL APPEAL NO. 32 OF 20005. .

Kanif Jaysing Gholap. .. Applicant.
vs
The State of Maharashtra. .. Respondent.

Office Notes,Office Memoranda of Coram, appearnaces,Courts's orders or directions and Registrar's orders.	:	Court's or Judge's orders

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Shri Vishwanath S. Talkute for the applicant.
Shri D.P. Adsule, A.P.P. for the State.

CORAM: V.M.KANADE,J.
DATED: 2-2-2005.

P.C.:

1. Heard learned Counsel appearing on behalf of the applicant and the learned A.P.P. for the State.

2. Applicant is convicted by the trial Court for having committed an offence punishable under section 399 read with section 402 of the Indian Penal Code and he is sentenced to suffer R.I. for 5 years. The prosecution case is that the investigating officer had received an information that the applicant and his companions were traveling in a jeep and were carrying weapons with them. On the basis of this information, the investigating officer kept watch on

Phaltan Road and at about 1.00 a.m. he apprehended the accused. The trial Court convicted the accused and sentenced them to suffer R.I. for 5 years.

3. Learned Counsel appearing for the applicant submitted that there are number of discrepancies in the evidence of the prosecution witnesses. He further submitted that the panch witnesses have not supported the prosecution story and, therefore, recovery of weapons has not been proved by examining independent witnesses. He further submitted that so far as present applicant is concerned, he was apprehended after 2 months and he was not found in the vehicle at the time of arrest of the other accused.

4. In my view, prima facie case for grant of bail is made out. There is no evidence to show that the investigating officer had received information that the applicant and others were travelling in a jeep for the purpose of committing dacoity as the investigating officer has not written this information in the station diary. The mere fact that weapons were found in the vehicle would not, by itself, constitute an offence of attempting to

commit dacoity. In these circumstances, [

applicant is entitled to grant of bail.

5. Applicant be released on bail in the sum of Rs. 5,000/- (five thousand) with one or two sureties in the like amount. Applicant shall attend the concerned police station twice in a month.